



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/172864

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 17, 2016, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance (MA), a hearing was held on April 21, 2016, at Eau Claire, Wisconsin.

The issue for determination is whether the IRIS program correctly seeks to end the petitioner's supportive home care companion services.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Bureau of Long-Term Support  
1 West Wilson  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Eau Claire County.
2. The petitioner receives medical assistance waiver services through the IRIS program, including supportive home care companion services.

3. The IRIS program notified the petitioner on March 14, 2016, that it was ending his companion care on March 31, 2016. His benefits continued while this case has been pending.
4. The petitioner receives companion care from his son who lives with him.
5. The petitioner drives his own car and makes his own decisions and meet his own needs independently.
6. No one else in the petitioner's family, including the son who provides his companion care, has a driver's license.
7. The petitioner can function and remain safe without a companion.

### **DISCUSSION**

The petitioner receives medical assistance waiver services through the IRIS program. IRIS is an alternative to the Family Care and Partnership programs. It allows persons to direct their own care. *IRIS Policy Manual*, § 1.1. IRIS, which stands for "Include, Respect I Self-Direct," was developed pursuant to a medical assistance waiver Wisconsin obtained under section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. The program currently provides supportive home care companion services that are provided by his son. The program seeks to end these services.

The waiver document providing the program's authority is available at <http://www.cms.gov/MedicaidStWaivProgDemoPGI/MWDL/list.asp>. The federal government's general guidance for the program is found at 42 C.F.R. § 441.450 – 484. Those regulations require the Department's agent to assess the participant's needs and preferences, and then develop a service plan based on the assessed needs. *Id.*, § 441.466. The service plan may include personal care and homemaker services. *Id.*, § 440.180(b). Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out..." *Id.* § 441.468. Wisconsin IRIS policies are found online at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>. A related version that provides work instructions is found at <https://www.dhs.wisconsin.gov/publications/p0/p00708a.pdf>. Services not found in Appendix C of the 1915(c) home and community based waiver are prohibited. *IRIS Online Policy Manual*, § 5.4A and § 5.4B.

The IRIS program allows supportive home care services for companionship care for participants who do not need hands-on care but who require an attendant if the need for support arises. The petitioner contends that he needs companion services because he has diabetes and occasionally collapses. Perhaps this is true, but he has the burden of proving that services are needed, and there is no documentation supporting his claim. What the evidence does show is that he makes his own decisions, communicates without difficulty, and drives his own car. I find it doubtful that his son, who has never been able to pass a driver's license examination, could care for him in an emergency. Instead, this appears to be a situation where IRIS funds add extra income to the household without contributing to medical care. I understand that the petitioner's household is financially strapped, but IRIS, being a medical assistance program, is not meant to be a substitute for general welfare payments. Based upon this, I find that the program correctly ended the petitioner's supportive home care companion benefits.

### **CONCLUSIONS OF LAW**

The IRIS program correctly seeks to end the petitioner's companion care because that benefit is not medically necessary.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 27th day of May, 2016

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\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 27, 2016.

Bureau of Long-Term Support